

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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SERGIO CERVANTES RODRIGUES,  
Petitioner,  
v.  
DWIGHT W. NEVEN, et al.,  
Respondents.

Case No. 2:12-cv-00604-MMD-VCF

ORDER

Petitioner has submitted a motion for stay and abeyance (dkt. no. 14), and respondents have submitted a notice of nonopposition (dkt. no. 15). Petitioner admits that he has not exhausted his state-court remedies for all but one of his grounds for relief. The Court agrees with the parties that the current federal petition (dkt. no. 10) can act as a "protective petition," pursuant to *Pace v. DiGuglielmo*, 544 U.S. 408 (2005), because there is some question whether his current state petition, the second that he has filed, is properly filed to toll the federal statute of limitations pursuant to 28 U.S.C. § 2244(d)(2).


IT IS THEREFORE ORDERED that petitioner's motion for stay and abeyance (dkt. no. 14) is GRANTED.

IT IS FURTHER ORDERED that this action is STAYED pending exhaustion of the unexhausted claims. Petitioner shall return to this Court with a motion to reopen within sixty (60) days of issuance of the remittitur by the Nevada Supreme Court at the

1 conclusion of the state court proceedings. Further, petitioner or respondents otherwise  
2 may move to reopen the matter and seek any relief appropriate under the  
3 circumstances.

4 IT FURTHER IS ORDERED that the Clerk of Court shall administratively close  
5 this action until such time as the Court grants a motion to reopen the matter.

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7 DATED THIS 1<sup>st</sup> day of October 2012.

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10 UNITED STATES DISTRICT JUDGE  
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